App. F. IX-4

192/Lair

File No. 31-28

Previous References
Laid. 31-28, 1-3.

Serial Nos. 4-7

Later References
Law 66-32-1-7
3-32-32-35
" 115-32-1-3.

General and Revenue Secretariat.

Serial Nos. 4

Part B for Feby 29.

SUBJECT

Re. Fy of 1928 29 with Regulations &c.
Duplicate (Remarks thereon
Arrangements &c &c).

To the P.A. Darjeeling
No. 6299 S. 2-28
Requests him to apply for
the dependents of the Chaukidars &
prepare the Returns &
send them
early as
may be

9/2/29

General and Revenue Secretariat

Law File No. 31 of 1928

Serial No.

Letter no: 364 of 28-29 dated 30
from the Public Prosecutor Bangalore,
forwarding a draft w.s. with records
for approval of L.R.

Copy of Plaint is flagged 7. The suit
is for recovery of principal viz Rs 46887 interest due on a
mortgage bond executed by the late Mahadeshi
of Avani Mutt in favour of [illegible] on 8th Oct 1922
The Ch Secy is made the 2nd defdt since
properties of the Mutt are under Govt manage-ment
The order of Govt to contest the suit, if brought,
passed on a petition by the plaintiffs, is flagged
K. The opinion of L.R is flagged E.

The Draft w.s. now sent puts the plff
to proof of the mortgage & of the legal necessity
for executing the same so as to make it
binding on the Successors. In para 3 of the draft
w.s. ~~The draft~~ it is contended ~~also contends~~ that even if the
mortgage is true, it is valid only during the
lifetime of the mortgagee (?) & cannot be binding
on the present defendants.

The law in force is clear that a mahadeshi
has no right to borrow on the security of
immovable properties belonging to the
mutt. ~~properties except for legal necessity~~ (vide Chief Com's Instr
~~in which case the mortgage will be binding on~~ of 1877 not repealed in this
~~the Successors. The burden of proving such necessity~~ respect by the Mysore Regn of 1913
~~is of course on the lender.~~

Para 4 of the draft w.s. repudiates the
right of the plff to a set-off of the petta amount
due from him to the Mutt.

NOTE—Contn. sheet

.337.

General and Revenue Secretariat

Law File No. 31

[redacted]

Serial No.	
	Paras 3, 4 & 5 first the def in behalf of both the defendants. But the PPr appears only for the first & hence it is submitted that the words "1st deft" occurring in these paras may be omitted.
	[redacted] 1.2.29 Please revise the draft as personally instructed. D. M. 1/2.
	Revised Draft W.S. put up. MP 1.2.29
	for favour of being marked for the signature of Chief Secretary to the written statement. MP 2-2-29 (Illegible) 2/2/29.
	Draft to PPr for perusal MP 2.2.29
5	Do PPr Bangalore P 4127 / Land 31-78-5 dated 2.2.29 enclosing W.S. with no cord.

Date of hearing 4-2-28

NOTE—Contn. sheet

3447377

App. I. III—3

General and Revenue Secretariat

Law File No. 31 of 192 8

Serial No.	
6	From the Asst Comr No C 560/28-29 dated 2-2-29 Stating that the P Pr Bangalore may be instructed to appear for the 1st defendant, namely the present Swamy also.- Secy's order on the P.O.D "Since the suit is said to be under Court management and as there are no adverse interests, the P. Pr may be authorised as advised to defend the 1st deft also." sd/ P.M. 4/2/29 Draft to P Pr Bangalore (L.R.) No defence of both the defts is practically the same Draft may be approved Member 6.2.29
7	To the P Pr Bangalore. P 4299 dated 7/2/29 requesting him to appear on behalf of the 1st deft also & take instructions from the Asst Comr for preparing the draft written statement P 4300 copy to Asst Comr

RECEIVED No. 4723

NOTE—Contd. sheet

WD 021—GPB—30,000—21-8-28

T: no - 364/28-29
encl 1 file

Bangalore
30/1/1929

The public prosecutor,
Bangalore.

The Legal Remembrancer,
and Secretary to Government
Law Department,
Bangalore

Re: os 9/28-29. plaintiff. Ramaguramurthiah

I have the honor to send herewith the written statement in the above case for approval. The case is posted to 4/2/1929. Entire records are sent herewith copy of the plaint is also enclosed.

Mr. J. Rao is attending to this

I have the honor to be,
Sir,
your most obedient servant,

B. N. Vijaya Rao
public prosecutor,
Bangalore

In the court of the District Judge, Bangalore

OS 9/28-29.

Ramaguru Muthiah vs. 1. Sri Vidyaranyaswami
2. Chief Secretary,
Government of Mysore
Bangalore

Under order VIII rule 1 C.P.C

written statement of the 2nd defendant.

1. This defendant puts the plaintiff to proof of the allegations contained in para 1 of the plaint. The factum, the necessity for and the benefits to the mutt by the alleged loans are to be proved by the plaintiff.

2. This defendant puts the plaintiff to proof of allegations in para 2 of the plaint. Again the burden is on him to prove why and how the alleged mortgage deed was executed as well as the factum and necessity of the debt and the benefit to the mutt thereby. Even if the alleged mortgage is true, it is not valid and binding either upon the late Swami or upon the successors or even on the mutt properties.

This plea should be raised first.

3. This defendant submits that even assuming (but not conceding) that the mortgage is true, it is valid only during the life

Omit this

time of the mortgagee. It is not binding either on the 1st defendant or 2nd defendant

4: Neither the 1st defendant nor the 2nd defendant is bound by the alleged right of the plaintiff to deduct the Gutta amount due from the plaintiff. This defendant repudiates any such right.

5: There is no Cause of action either on the 1st defendant or 2nd defendant. This defendant does not admit any of the allegations in the plaint which are not explicitly admitted herein.

6. This defendant submits that the plaintiff is not entitled to any of the reliefs prayed for in the plaint

7 This defendant prays that the suit may be dismissed with costs

B. N. V. D.

I, the abovenamed 2nd defendant do hereby declare what is stated above is true to the best of my knowledge, belief and information.

Appendix F G—1

SUBJECT.....

.....

.....

Section Law.

File No. 31-28

Serial No. 5

No. P 4127 with Covers

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To

The Public Prosecutor

Bangalore.

Date of issue 2/2/29

Signed by Sd. N. Sitharamaiya

Sir,

I am directed to return herewith the written statement in O.S. 9 of 28-29 (Ramaguruvammanna vs Avani Mutt & Chief Secy) on the file of the District Court, Bangalore, duly signed by the Chief Secretary for being filed in Court on 4th Feb 1929.

The records sent with your letter No. 364 of 28-29 dated 30th Jan 1929 are herewith

List of enclosures.....

Copied by.....

Examined by.....

over

WD 0899—GPB—20,000—18-9-28

returned.

I have ask

Dr Seng Lay

Pony Law

2 2 24

Dr A/V

In the Court of the District Judge, Bangalore

O.S. 9 of 28.77

Plaintiff

Ramaguru murthia

Defendants

1) Sri Vidyaranyaswam

2) The Chief Secretary

Under order 8 rule 1 of the Code of Civil Procedure, the 2nd defendant aforenamed files the following written statement:-

1) The ~~Suit~~ ~~Mortgage~~ cannot be binding ~~on this defendant or~~ on the plaint schedule ~~the~~ properties of the Mutt in the management of this defendant since under the law as ... here ~~at~~ Mysore, a mathadhipathi has no right to mortgage the inam lands endowed to the mutt ~~by~~ ~~government~~.

2) This defendant puts the plaintiff to strict proof of the allegations in paras 1 and 2 of the plaint, as also to the ~~execution of the mortgage~~ ~~deed~~, necessity of the alleged loans.

3). This defendant repudiates any right in the plaintiff to ~~deduct~~ set off the gutta amount

due ~~from~~ by him towards the interest on the Suit mortgage.

4). The plaintiff has no cause of action against this defendant and is not entitled to any of the reliefs claimed

Wherefore he prays that the suit be dismissed with costs.

Chief Secretary to govt

I the 2nd defendant aforenamed do hereby state that what is stated above is true to the best of my knowledge,

Chief Secretary to govt

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S. 9 of 1928-29.

Plaintiff.	Defendants.
Ramagurumurthia.	1. Sri Vidyaranyaswami.
	2. The Chief Secretary.

Under Order 8 rule 1 of the Code of Civil Procedure, the 2nd defendant above named files the following written statement:-

1. The suit mortgage cannot be binding on the plaint schedule properties of the mutt in the management of this defendant, since under the law as in force in Mysore, a mathadnipathi has no right to mortgage the inam lands endowed to the mutt.

2. This defendant puts the plaintiff to strict proof of the allegations in paras 1 and 2 of the plaint as also to the factum and necessity of the alleged loans.

3. This defendant repudiates any right in the plaintiff to set off the gutta amount due by him towards the interest on the suit mortgage.

4. The plaintiff has no cause of action against this defendant and is not entitled to any of the reliefs claimed.

Wherefore he prays that the suit be dismissed with costs.

Chief Secretary to Government.

I the 2nd defendant above named do hereby state that what is stated above is true to the best of my knowledge.

Chief Secretary to Government.

Immediate.

3447/1928

M. C. 13]

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore,.....2nd February.....*1929*.

No. C 560/28-29

Leave 31-28-6

FROM

P. G. D'Souza, Esq., B.A., B.L.,
The Muzrai Commissioner in Mysore.

To

The Secretary to the Government of His
Highness the Maharaja of Mysore,
Law Department.

SIR.

Referring to your Memo No.P.18-32/Law dated 24th September 1928, re suit No.9/28-29 on the file of the District Judge, Bangalore, --- (Ramagurumurtia VS. Sri Vidyaranya Swami and the Chief Secretary to Government), I have the honor to request that the Public Prosecutor, Bangalore, who is appearing on behalf of the Chief Secretary to ----- Government in the above case, may kindly be instructed to ~~defend~~ defered the first defendant also, who is now the presiding Swami of the Sri Avani Matha. As the case stands posted to 4th instant I have -- requested the Public Prosecutor to do the needful in anticipation of Government approval.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

Appendix F G—1

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 192

Date of issue 8/2/29

Signed by M Rss

List of enclosures.....

Copied by Cooper

Examined by Khan 2.2.29

Section Law

File No. 31-28

Serial No. 7

No. 4299

To

The Public Prosecutor
Bangalore.

Sir,

I am directed to request you to appear for the 1st defendant also in O.S. 9 of 28-29 on the file of the District Judge, Bangalore (Ramaguramurthi v Avani Mukh and Chief Secretary) and to prepare the defence, taking necessary instructions from the Muzarai Commissioner.

Yours etc

Rs 4300 8/2 over M. Forbes 1st

Cooper to Muzarai

Copy 5/2

WD 0899—GPB—20,000—18-9-28

Commissioner to the reference
to his letter no C 560/28.29
dated 2nd Feb 1929.

for Secy